

Magistrate Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONATHAN S. MARQUEZ-
MONDRAGON

Defendant.

No. CR14-5418

) FINDINGS AND ORDER ACCEPTING
) DEFENDANT FOR DEFERRED
) PROSECUTION, APPROVING
) TREATMENT PLAN, AND
) DIRECTING DEFENDANT TO TAKE
) TREATMENT AS PRESCRIBED

THIS MATTER, coming on for hearing this 6th day of April, 2015 upon the defendant's Petition for Deferred Prosecution; the defendant appearing in person and by his attorney, John Carpenter, Assistant Federal Public Defender; the United States of America being represented by Barbara J. Sievers, Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Clatsop Behavioral Healthcare, and the files and records herein, being fully advised in the premises, does now make and enter the following:

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I. FINDINGS OF FACT

A. On or about the 7th day of February, 2014, Petitioner was charged with the offense/offenses charged in the Information. This offense occurred as a direct result of alcoholism/chemical dependency problems;

B. Petitioner suffers from an alcohol/drug problem and is in need of treatment;

C. The probability of similar misconduct in the future is great if the problem is not treated;

D. Petitioner is amenable to treatment;

E. An effective rehabilitative treatment plan is available to Petitioner through Clatsop Behavioral Healthcare, an approved treatment facility as designated by the laws of the State of Washington, and Petitioner agrees to be liable for all costs of this treatment program;

F. That Petitioner agrees to comply with the terms and conditions of the program offered by the treatment facility as set forth in the diagnostic evaluation from Clatsop Behavioral Healthcare, attached to Statement of Petitioner filed herewith, and that Petitioner agrees to be liable for all costs of this treatment program;

G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and sufficiency of the facts as contained in the written police report attached to Statement of Petitioner filed herewith.

H. That Petitioner will acknowledge the admissibility of the stipulated facts at the time of any criminal trial on the underlying offense or offenses held subsequent to revocation of this Order Granting Deferred Prosecution and that these reports will be used to support a finding of guilt;

From the foregoing FINDINGS OF FACT, the Court draws the following:

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II. CONCLUSIONS OF LAW

A. That the above-entitled Court has jurisdiction over the subject matter and Petitioner Jonathan S. Marquez-Mondragon, in this case;

B. That Petitioner's Petition for Deferred Prosecution meets the requirements of RCW 10.05 et seq.;

C. That the diagnostic evaluation and commitment to treatment meets the requirements of RCW 10.05.150;

D. That Petitioner is eligible for deferred prosecution.

III. ORDER

Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, it is hereby

ORDERED that the defendant is accepted for deferred prosecution. The prosecution of the above-entitled matter is hereby deferred for five (5) years pursuant to RCW 10.05 et seq., upon the following terms and conditions:

A. Petitioner shall be on probation for the deferral period and follow the rules and regulations of probation;

B. Petitioner shall enroll in and successfully complete the two-year treatment program recommended by Clatsop Behavioral Healthcare according to the terms and conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached to the Petition and incorporated herein by reference. Petitioner shall not change treatment agencies without prior Probation approval;

C. The treatment facility, Clatsop Behavioral Healthcare, shall file with the United States Probation Office status reports of Petitioner's compliance with treatment, monthly during the first year of the deferred prosecution period and every three (3) months during the second year. The Court may increase the frequency of these reports at its discretion;

1 D. Petitioner shall notify U.S. Probation within 72 hours of any residence
2 change.

3 E. Petitioner shall abstain during the deferred prosecution period from any
4 and all consumption of alcoholic beverages and/or non-prescribed mind-altering drugs;

5 F. Petitioner shall not operate a motor vehicle on the public highways
6 without a valid operator's license and proof of liability insurance sufficient to comply
7 with the state laws on financial responsibility;

8 G. Petitioner shall be law abiding and shall not commit any alcohol/drug
9 related offenses or other criminal offenses during the period of deferral,

10 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,
11 questioned, or cited by Law Enforcement;

12 I. In the event that Petitioner fails or neglects to carry out and fulfill any
13 term or condition of his treatment plan or violates any provision of this Order or any
14 rule or regulation of his probation officer, upon receiving notice, the Court shall hold a
15 hearing to determine why Petitioner should not be removed from deferred prosecution
16 and prosecuted for the offense/offenses charged;

17 J. In the event the Court finds cause to revoke this deferred prosecution, the
18 stipulated police reports shall be admitted into evidence, and Petitioner shall have his
19 guilt or innocence determined by the Court;

20 K. That the statement of Petitioner for Deferred Prosecution shall remain
21 sealed, and all subsequent reports or documents relating to his treatment information
22 shall be sealed, to maintain confidentiality of Petitioner's treatment information;

23 L. That the Department of Licensing be notified of this Order accepting the
24 Petitioner for deferred prosecution;

25 M. Upon proof of Petitioner's successful completion of five years deferral
26 period in this Order, the Court shall dismiss the charges pending against Petitioner.

1 N. Additional conditions:

2 a. The defendant shall not enter any establishment where alcohol is the
3 primary commodity for sale.

4 b. The defendant shall participate as instructed by the U.S. Probation Officer
5 in a program approved by the probation office for treatment of narcotic
6 addiction, drug dependency, or substance abuse, which may include testing to
7 determine if the defendant has reverted to the use of drugs or alcohol. The
8 defendant shall also abstain from the use of alcohol and/or other intoxicants
9 during the period of supervision. Defendant must contribute towards the cost of
10 any programs, to the extent defendant is financially able to do so, as determined
11 by the U.S. Probation Officer.

12 c. The defendant shall submit his/her person, residence, office, safety
13 deposit box, storage unit, property, or vehicle to a search, conducted by a U.S.
14 Probation Officer or any other law enforcement officer, at a reasonable time and
15 in a reasonable manner, based upon reasonable suspicion of contraband or
16 evidence of a violation of a condition of supervision. Failure to submit to a
17 search may be grounds for revocation; the defendant shall notify any other
18 residents that the premises may be subject to searches pursuant to this condition.


19 d. The defendant shall participate as directed in a mental health program
20 approved by the United States Probation Office. The defendant must contribute
21 towards the cost of any programs, to the extent the defendant is financially able
22 to do so, as determined by the U.S. Probation Officer.

23 e. The defendant shall not drive without a valid license or insurance.

24 DONE IN OPEN COURT this 6th day of April, 2015.

25 
UNITED STATES MAGISTRATE JUDGE

Presented by:



JOHN CARPENTER
Attorney for Petitioner

ORDER ACCEPTING DEFERRED
PROSECUTION
(CR14-5418; Jonathan S. Marquez-Mondragon) - 5


FEDERAL PUBLIC DEFENDER
1331 Broadway, Suite 400
Tacoma, WA 98402
(253) 593-6710

1 I have received a copy of the foregoing Order of Deferred Prosecution. I have
2 read and understand its contents, and agree to abide by the terms and conditions set
3 forth herein.

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5 Dated: 4/6/15


JONATHAN S. MARQUEZ-MONDRAGON
Petitioner

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8 I certify that a copy of this signed Order was mailed to the subject treatment
9 facility, on 4/6, 2015. The United States Probation Office was also
10 furnished a copy of this Order.

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Clerk, Deputy